

REMARKS

This application has been carefully reviewed in light of the Office Action dated September 16, 2005. Claims 1 to 3, 5 to 10, and 12 to 17 are in the application, of which Claims 1, 15 and 16 are independent. Reconsideration and further examination are respectfully requested.

All claims were rejected under 35 U.S.C. § 112, second paragraph. The rejections are all respectfully traversed, as follows.

With respect to Claims 1 and 15, it was asserted that “the topography direction” is indefinite. In response, Applicant respectfully points out that the claim itself defines the nature of the topography direction: it is a “direction along which the topography data is measured or calculated”. Accordingly, it is not seen that the claimed “topography direction” is indefinite, and withdrawal of the rejection is respectfully requested.

With respect to Claim 16, it was asserted that “applications that do not involve fusion” was indefinite. Actually, the claim language in question reads “computerized data-processing applications that do not involve fusion”. Candidly, in view of the wealth of information in the specification concerning the nature of “fusion” and the nature of “applications that do not involve fusion”, the rejection is simply not understood. The application provides multiple different examples of fusion, and multiple different examples of applications that do and do not involve fusion. It is not seen how anyone of

ordinary skill in the art would have difficulty in understanding this terminology, and withdrawal of the rejection is therefore respectfully requested.

All claims were further rejected under 35 U.S.C. § 102(b) over U.S. Patent 6,047,227 (Henderson). This rejection was repeated from the prior Office Action, and Applicant continues to traverse it. The arguments filed in the Amendment dated June 27, 2005 are hereby incorporated by reference, and Applicant maintains his position that Henderson does not disclose any data storage format whatsoever, and even to the extent that Henderson's teachings were misconstrued to somehow disclose some sort of data storage format, such a format does not comprise first, second and third sections as claimed herein, for storing topography data in relation to a reference entity with respect to which topography data is determined, for storing information concerning the reference entity, and for storing information concerning a topography direction along which topography data is measured or calculated.

In maintaining the rejection over Henderson, pages 5 and 6 of the Office Action elaborated on the PTO's position. According to the PTO, "Applicant does not claim any particular data storage format...", and "Claim 1 only mentions a data format in the preamble ...". These statements are clearly incorrect and factually wrong. The claims herein very clearly define a data storage format comprised of a first section, a second section, and a third section, for respectively storing topography data in relation to a reference entity with respect to which the topography data is determined, for storing information concerning the reference entity, and for storing information concerning a topography direction along which the topography data is measured or calculated. In view

of this clear claim language, which forms part of each claim herein, it is not understood why the PTO has equated Henderson's N-dimensional geographies with the claimed data storage format, particularly when Henderson's N-dimensional geographies contain so little relative to the actual claim language herein.

The Office Action further took the position that Henderson's "actual site" model is a reference entity with respect to which the "desired site" model is determined. Again, as stated in the Amendment dated June 27, 2005, this position is inconsistent with the remainder of Henderson's disclosure. Henderson's differencing algorithm 102 makes it altogether clear that there is some "external reference" against which both of the "actual site" model and the "desired site" model are measured. See Henderson, column 3, line 20:

"Using a known three-dimensional positioning system with an external reference, for example (but not limited to) 3-D laser, GPS, GPS/laser combinations or radar, machine or tool position coordinates are determined in block 100 as the machine moves over the site." (Emphasis added.)

Thus, Henderson is clear that his "actual site" model is not a reference entity, since both the "actual site" and the "desired site" models are measured relative to an external reference. However, since this external reference is nowhere mentioned within Henderson's block 104, it could not possibly meet the terms of the claims herein which specify that there is a second section for storing information concerning the reference entity.

Moreover, and in an effort to distinguish the invention even further from the disclosure of Henderson, the claims have been amended so as to specify that the topography data is "medical image" topography data. It will be appreciated that

Henderson's earth moving and geo-shaping technology is unrelated to medical image topography data, both in the scope of problems encountered and of solutions thereto.

In view of the foregoing, it is respectfully submitted that the claims herein are fully in condition for allowance, and such action is courteously solicited.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael K. O'Neill", written over a horizontal line.

Attorney for Applicant
Michael K. O'Neill
Registration No. 32,622

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

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